APPLICANT(S):   WIEGERT, Jens
SERIAL NO.:   10/597,713
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## REMARKS

The present response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### Status of Claims

Claims 1-10 are pending in the application. Claims 1-10 have been rejected. Claims 1, 2 and 4-10 have been amended.

Claim 3 has been canceled without prejudice or disclaimer. In making this cancellation without prejudice, Applicants reserve all rights in these claims to file divisional and/or continuation patent applications.

Claims 2 and 4-10 have been voluntarily amended for clarification only. These amendments do not narrow the scope of the claims, nor are they being made for reasons of patentability. The amended claims are not subject to the complete bar against the use of the Doctrine of Equivalents as outlined in *Festo Corporation v. Shoketsu Kinsoku Kogyo Kapushiki Co., Ltd. a/ka/ SMC Corporation and SMt Pneumatics, Inc.*, as the amendments do not narrow the scope of the claims, nor are they being made for reasons of patentability.

Applicants respectfully assert that the amendments to the claims add no new matter.

### CLAIM REJECTIONS

### 35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1, 3-8, 10 under 35 U.S.C. § 102(b), as being anticipated by Reader *et al.* ("Adaptive Correction of Scatter and Random Events for 3-D Backprojected PET Data"). Applicants respectfully traverse this rejection in view of the remarks that follow.

Reader *et al.* purport to describe a mask region that is determined on the basis of *a priori* knowledge of where "true activity is located." Reader *et al.* do not discuss automatic

determination of a mask region. In particular, Reader *et al.* do not teach or suggest an "apparatus programmed to...segment at least one segmented area from the sectional image, where the reconstructed X-ray density within said at least one segmented area lies within a given density interval," as recited in amended independent claim 1. Nor do Reader *et al.* teach or suggest a method for "segmenting at least one segmented area from the sectional image, where the reconstructed X-ray density within said at least one segmented area lies within a given density interval," as recited in amended independent claim 10. For a reference to anticipate a claim, the reference must teach all elements of the claim. Therefore, Reader *et al.* cannot anticipate independent claims 1 and 10, as amended.

Accordingly, Applicants respectfully assert that amended independent claims 1 and 10 are allowable. Claims 3-8 depend from, directly or indirectly, claim 1, and therefore include all the limitations of that claim. Therefore, Applicants respectfully assert that claims 3-8 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to amended independent claims 1 and 10 and to claims 3-8 dependent thereon.

Applicants respectfully request reconsideration and withdrawal of the rejections of claims 1, 3-8 and 10.

Claim 3 has been cancelled without prejudice or disclaimer, because its limitations were incorporated into amended claim 1.

### 35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 2 and 9 under 35 U.S.C. § 103(a), as being unpatentable over Reader *et al.* in view of Watson ("New, Faster, Image-Based Scatter Correction for 3D PET").

Applicants respectfully traverse the rejection of claims 2 and 9 under Reader *et al.* and Watson.

Applicants respectfully traverse the rejection because a *prima facie* case of obviousness has not been established.

The combination of Reader *et al.* and Watson does not teach or suggest all the limitations of independent claim 1, nor does it teach or suggest all the limitations of

dependent claims 2 and 9. Reader *et al.* has been discussed above. That discussion is applicable here. Watson is also silent as to an "apparatus programmed to … segment at least one segmented area from the sectional image, where the reconstructed X-ray density within said at least one segmented area lies within a given density interval," and therefore cannot cure the deficiencies of Reader *et al.* Accordingly, Applicants respectfully assert that this rejection should be withdrawn.
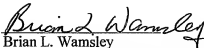
An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Since Reader *et al.* or Watson, alone or in combination, do not teach or suggest all the elements of any of independent claim 1, the Examiner fails to establish a prima facie showing that Reader *et al.* or Watson, alone or in combination, teach or suggest every feature of claim 1.

Accordingly, Applicants respectfully assert that amended independent claim 1 is allowable. Claims 2 and 9 depend from, directly or indirectly, claim 1, and therefore include all the limitations of those claims. Therefore, Applicants respectfully assert that claims 2 and 9 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to claims 2 and 9 dependent on independent claim 1.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Respectfully submitted,

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